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Debtor In Pro Se

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re

LESLIE KLEIN,

Debtor.

ROBERT & ESTHER MERMELSTEIN,

Plaintiffs,

v.

LESLIE KLEIN,

Defendant.

Case No.: 2:23-bk-10990-SK

Chapter 11

Adv. No.: 2:23-ap-01153-SK

**ANSWER TO COMPLAINT TO DENY
DISCHARGE OF DEBT AND DENIAL OF
DISCHARGE (AS AMENDED BY
AMENDED PROOF OF CLAIM FILED
1/10/2024)**

Place: Courtroom 1575

Comes now the Defendant, Leslie Klein ("Defendant") for himself only, and for his answer to the Complaint to Deny Discharge of Debt and Denial of Discharge (the "Complaint") filed by Robert Mermelstein and Esther Mermelstein (the "Plaintiffs"), and states as follows:

PREFACE

Plaintiff caused a request for entry default to be filed November 28, 2023 and Default was entered thereon November 28, 2023. Plaintiff filed 6 amended Proof of Claim dated January 10, 2024 thereby opening the default.

CORE/NON-CORE DESIGNATION

1. The Defendant admits the allegations contained in paragraph 1 of the Complaint, and consents to entry of final orders or judgment by the bankruptcy court.

JURISDICTION, VENUE & STANDING

2. The Defendant admits the allegations contained in paragraph 2 of the Complaint.
3. The Defendant admits the allegations contained in paragraph 3 of the Complaint.
4. The Defendant admits the allegations contained in paragraph 4 of the Complaint.

PARTIES

5. The Defendant admits the allegations contained in paragraph 5 of the Complaint.
6. The Defendant admits the allegations contained in paragraph 6 of the Complaint.
7. The Defendant admits the allegations contained in paragraph 7 of the Complaint.

GENERAL ALLEGATIONS

8-36. The Defendant generally denies all material allegations contained in paragraphs 8-36 of the Complaint and refers to the proceedings in the underlying state court action and other proceedings relating to the funds alleged. The judgment alleged has been appealed.

PERIODIC PAYMENTS TO PLAINTIFFS FROM DEFENDANT'S IOLTA ACCOUNT

37. The Defendant denies the allegations contained in paragraph 37 of the Complaint.

PLAINTIFF'S DISCOVERY OF DEFENDANT'S FRAUD

38-40. The Defendant generally denies all material allegations contained in paragraphs 38-40 of the Complaint and refers to the proceedings in the underlying state court action and other proceedings relating to the funds alleged. The judgment alleged has been appealed.

PLAINTIFFS' PROOF OF CLAIMS

41. The Defendant denies the allegations contained in paragraph 38 of the Complaint.

FIRST CLAIM FOR RELIEF

(Nondischargeability of Debt – 11 U.S.C §523(a)(2)(A))

42-49. The Defendant generally denies all material allegations contained in paragraphs 42-49 of the Complaint and refers to the proceedings in the underlying state court action and other proceedings relating to the funds alleged. The judgment alleged has been appealed.

SECOND CLAIM FOR RELIEF

(Nondischargeability of Debt – 11 U.S.C. §523(a)(4))

50-56. The Defendant generally denies all material allegations contained in paragraphs 50-56 of the Complaint and refers to the proceedings in the underlying state court action and other proceedings relating to the funds alleged. The judgment alleged has been appealed.

THIRD CLAIM FOR RELIEF

(Nondischargeability of Debt – 11 U.S.C. §523(a)(6))

57-63. The Defendant generally denies all material allegations contained in paragraphs 57-63 of the Complaint and refers to the proceedings in the underlying state court action and other proceedings relating to the funds alleged. The judgment alleged has been appealed.

FOURTH CLAIM FOR RELIEF

(Objection to Debtor's Discharge – 11 U.S.C. §727(a)(2)(A))

64-71. Fourth Claim for Relief is dismissed by Order dated November 8, 2023.

FIFTH CLAIM FOR RELIEF

(Objection to Debtor's Discharge – 11 U.S.C. §727(a)(2)(B))

72-79. Fifth Claim for Relief is dismissed by Order dated November 8, 2023.

SIXTH CLAIM FOR RELIEF

(Objection to Debtor's Discharge – 11 U.S.C. §727(a)(3))

80-84. Sixth Claim for Relief is dismissed by Order dated November 8, 2023.

SEVENTH CLAIM FOR RELIEF

(Objection to Debtor's Discharge – 11 U.S.C. §727(a)(4))

85-93. Seventh Claim for Relief is dismissed by Order dated November 8, 2023.

EIGHTH CLAIM FOR RELIEF

(Objection to Debtor's Discharge – 11 U.S.C. §727(a)(5))

94-96. Eighth Claim for Relief is dismissed by Order dated November 8, 2023.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim for which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

As a separate and affirmative defense, Defendant is informed and believes and on that basis avers that Plaintiff and each person whose rights it purports to assert have unclean hands, and Plaintiff accordingly is barred from relief against Defendant for any reason stated in the Complaint or any purported Claim for Relief therein.

THIRD AFFIRMATIVE DEFENSE

As a separate and affirmative defense, Defendant avers that the Complaint, and each purported Claim for Relief therein, is uncertain, ambiguous, and unintelligible.

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FOURTH AFFIRMATIVE DEFENSE

As a separate and affirmative, Defendant is informed and believes and on that basis avers that all equitable relief sought in the Complaint, and each purported Claim for Relief therein, is barred by laches.

FIFTH AFFIRMATIVE DEFENSE

As a separate and affirmative, Defendant is informed and believes and on that basis avers that Plaintiff and each person whose rights it purports to assert are estopped from asserting each and every purported Claim for Relief in the Complaint, or from seeking any relief thereby.

SIXTH AFFIRMATIVE DEFENSE

As a separate and affirmative, Defendant is informed and believes and on that basis avers that Plaintiff and each person whose rights it purports to assert have waived any and all right to relief against Defendant for any reason stated in the Complaint or any purported Claim for Relief therein and that the claims contained in the Complaint are subject to setoff and/or recoupment.

SEVENTH AFFIRMATIVE DEFENSE

As a separate and affirmative defense to each and every cause of action of the Complaint, Defendants allege that Plaintiff is barred from recovery against Defendants, in whole or in part, because Plaintiff has failed to satisfy conditions or obligations precedent to Defendants' performance of the contract or contracts.

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EIGHT AFFIRMATIVE DEFENSE

As a separate and affirmative defense to each and every cause of action of the Complaint, Defendants allege that Plaintiff's claims are barred by the doctrine of release and waiver.

NINTH AFFIRMATIVE DEFENSE

As a separate and affirmative defense to each and every cause of action of the Complaint, Defendants allege that Plaintiff's claims are barred by the doctrine of equitable estoppel.

TENTH AFFIRMATIVE DEFENSE

As a separate and affirmative defense to each and every cause of action of the Complaint, Defendants allege that Plaintiff's claims are barred or reduced by their failure to mitigate their damages.

ELEVENTH AFFIRMATIVE DEFENSE

As a separate and affirmative defense to each and every cause of action of the Complaint, Defendants allege that Plaintiff's claims are barred because Plaintiff's consented to Defendant's actions.

TWELFTH AFFIRMATIVE DEFENSE

Defendants reserve their rights to assert additional defenses as and when they learn of all the claims asserted against them, whether submitted or not, and as their discovery and investigation continues.

WHEREFORE, Defendant, respectfully requests an entry of order.

- Dismissing the Complaint with prejudice;


- Entitling Defendant to recover the costs incurred in defending this action, including attorney's fees; and
- Granting such other and further relief as this Court deems just and proper.

Dated: January ____, 2024

LESLIE KLEIN
Defendant

- Entitling Defendant to recover the costs incurred in defending this action, including attorney's fees; and
- Granting such other and further relief as this Court deems just and proper.

Dated: January 11, 2024


LESLIE KLEIN
Defendant

In re: LESLIE KLEIN Debtor(s) ROBERT & ESTHER MERMELSTEIN	Chapter: 11 Case No: 2:23-bk-10990-SK Adv. No: 2:23-ap-01153-SK
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 301 East Colorado Boulevard, Suite 520, Pasadena, California 91101.

A true and correct copy of the foregoing document described as **ANSWER TO COMPLAINT TO DENY DISCHARGE OF DEBT AND DENIAL OF DISCHARGE** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On 1/17/2024, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

[x] Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicated method for each person or entity served):

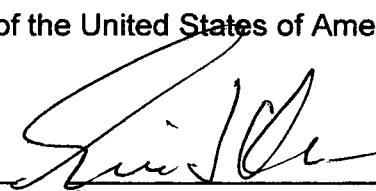
On 1/17/2024, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

[x] Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

1/17/2024
Date

Eric J. Olson
Type Name


Signature

In re: LESLIE KLEIN Debtor(s) ROBERT & ESTHER MERMELSTEIN	Chapter: 11 Case No: 2:23-bk-10990-SK Adv. No: 2:23-ap-01153-SK
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I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")

- Baruch C. Cohen bcc@baruchcohenesq.com,
paralegal@baruchcohenesq.com
- Michael I. Gottfried mgottfried@elkinskalt.com, cavila@elkinskalt.com,
lwageman@elkinskalt.com, docketing@elkinskalt.com
- Nikko Salvatore Stevens nikko@cym.law, mandi@cym.law
- United States Trustee (LA) ustpregio16.la.ecf@usdoj.gov
- Clarisse Young youngshumaker@smcounsel.com, levern@smcounsel.com

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL – VIA U.S. MAIL

Hon. Sandra Klein
U.S. Bankruptcy Court
255 E. Temple Street #1582
Los Angeles, California 90012